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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,053

02/17/2004

Nosa Omoigui

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8380

7590

02/07/2006

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EXAMINER

LE, MICHAEL

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,053

Applicant(s)

OMOIGUI, NOSA

Examiner

Michael Le

Art Unit

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-41 is/are pending in the application.
- 4a) Of the above claim(s) 11-31,40 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 32-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary and Status of Claims

1. This Office Action is in response to Applicant's reply filed November 17, 2005.
2. **Claims 1, 2, and 4-41** are pending.
3. **Claims 11-31, 40 and 41** have been withdrawn from consideration as being directed towards a non-elected invention.
4. The drawings are objected to.
5. **Claims 32 and 39** are rejected under 35 U.S.C. 101.
6. **Claims 1, 2, 4-7, 9, 10, and 32-39** are rejected under 35 U.S.C. 102(e) as being anticipated by Presnell et al. (US Patent 6,182,067) of record.
7. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable Presnell et al. (US Patent 6,182,067) of record in view of Chu (US Patent Pub 2003/0065663).
8. **Claims 1, 2, 4, 5 and 33-38** have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting.
9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election / Restriction

10. Newly submitted **claims 11-31, 40 and 41** are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
11. **Claims 11-31** are directed towards the user interface of the system, wherein the dependent claims further limit the aspects of the user interface. The claims as originally

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presented (claims 1-4, claim 3 now cancelled) were directed towards the system and its functionality. Claims 11-31 claim the software user interface to use the system, which is distinct from the invention originally claimed.

12. **Claims 40 and 41** are directed towards determining the existence of a relationship between information and a category based on a connotative meaning associated with the information and the category. The claims as originally presented (claims 1-4, claim 3 now cancelled) determine a semantic relationship between information and a category using domain-specific data, however the original claims do not include determining an existence nor the use of a connotative meaning associated with the information and the category. Thus, **claims 40 and 41** are distinct from the invention originally claimed.

13. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, **claims 11-31, 40 and 41** are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

14. The drawings are objected to because drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white. See 37 CFR 1.84. In the present case, the drawings are screen shots, which are of poor quality and does not meet the requirement. The text in the screenshot is not legible. Applicant is requested to replace the drawings consisting of screenshots with computer drafted drawings representing the same thing. Applicant is advised that adding information to the drawings or relocating elements of the

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drawings may be considered new matter. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

15. **Claims 32 and 39 are rejected under 35 U.S.C. 101** because the claimed invention is directed to non-statutory subject matter.

16. The basis of this rejection is set forth in a test of whether the invention is categorized as a process, machine, manufacture or composition of matter and if the invention produces a useful, concrete and tangible result. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must produce a useful, concrete and tangible result.

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17. In the present case, **claims 32 and 39** recite a system that does not contain components defining the physical structure of the system. Claims 32 and 39 both claim a software application, which fails to meet the requirements for a system to be statutory. For a system claim to be statutory, it must recite physical components that define the physical structure of the system, thereby allowing the system to be categorized in one of the statutory categories of invention.

18. To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention

Claim Rejections - 35 USC § 102

19. **Claims 1, 2, 4-7, 9, 10 and 32-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Presnell et al. (US Patent 6,182,067) of record, hereinafter “Presnell”.**

20. In regards to **claims 1 and 5**, Presnell discloses a system comprising:

- a. a least one server programmable to store at least one semantic relationship between information and at least one category and to access domain-specific data that is used to determine the at least one semantic relationship between the information and the at least one category (Fig. 1, 4; col. 7, lines 22-31, 44-52; col. 8, lines 5-47; col. 13, lines 50-67; col. 14, lines 1-22),
- b. a user interface, the user interface configurable to communicate with the at least one server (Fig. 1; col. 7, lines 32-40);
- c. wherein the at least one server is programmable to perform the steps of:

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- i. accessing the information from at least one information source (Col. 12, lines 20-28, 35-38; col. 13, lines 40-46);
- ii. determining the at least one semantic relationship between the information and the at least one category using the domain-specific data (Fig. 10; col. 13, lines 50-67; col. 14, lines 1-22);
- iii. storing the at least one semantic relationship between the information and the at least one category (Col. 13, lines 56-63); and
- iv. delivering the information based on the at least one semantic relationship between the information and the at least one category (Fig. 16; col. 16, lines 54-62; col. 17, lines 15-43).

21. In regards to **claim 2**, Presnell discloses the system of claim 1, wherein the at least one server is further programmable to provide at least one of the following: a Semantic Network, a Semantic Data Gatherer, a Semantic Network Consistency Checker, an Inference Engine, a Semantic Query Processor, a Natural Language Parser, an Email Knowledge Agent, or a Knowledge Domain Manager (Col. 7, lines 22-31, 44-52; col. 1, lines 20-28)¹.

22. In regards to **claim 4**, Presnell discloses a method for knowledge retrieval, management, delivery and presentation for use with a server system programmed to add, maintain and host domain specific information that is used to classify and categorize semantic information, comprising:

¹ The knowledge server (at least one server) has the ability to be programmed to extract information from information sources (directed to providing a Semantic Data Gatherer).

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- a. securing information from information sources (Col. 12, lines 20-28, 35-38; col. 13, lines 40-46)²;
- b. semantically linking the information from the information sources (Fig. 10; col. 13, lines 50-61)³;
- c. maintaining the semantic attributes of the semantically linked information (Fig. 4; col. 8, lines 5-47)⁴;
- d. delivering requested semantic information based upon user queries (Fig. 16; col. 16, lines 54-62)⁵; and
- e. presenting semantic information according to customizable user preferences (Fig. 20; col. 18, lines 4-16)⁶.

23. In regards to **claim 6**, Presnell discloses the system of claim 5, wherein the delivered information is presentable on the user-interface (Fig. 1; laptop or PC).

24. In regards to **claim 7**, Presnell discloses the system of claim 5, wherein the delivered information is any of sharable, savable, bookmarkable, convertible to sound, and convertible to a different language (Col. 8, lines 43-46).

25. In regards to **claim 9**, Presnell discloses the system of claim 5, wherein the delivered information is capable of being cached (Fig. 1, PC; col. 16, lines 64-67; col. 17, lines 1-2)⁷.

² Extracting phase of the knowledge system is gathering information from different sources including the internet and other electronic databases (securing information from an information source).

³ The knowledge server can be programmed with software modules that perform certain functions, such as those functions described in the cataloguing phase and depicted in figure 10. The documents stored on the knowledge server contain concepts (domain-specific information) that are used to catalogue (semantically linking) the documents and concepts (semantic information).

⁴ The knowledge server could be programmed to add concepts (domain-specific semantic information) and modify (maintain) them when necessary as shown in figure 4.

⁵ The system takes the information and delivers to the users that nominate interest (user query).

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26. In regards to **claim 10**, Presnell discloses the system of claim 5, wherein the delivered information is refinable by any of a keyword and a range (Col. 8, lines 14-47; col. 9, lines 18-67; col. 10, lines 1-10; col. 15, lines 24-67)⁸.

27. In regards to **claim 32**, Presnell discloses a system comprising a software application, the software application configurable to communicate with at least one server and a software user-interface (Fig. 1; col. 7, lines 32-40), the at least one server programmable to store at least one semantic relationship between information and at least one category and to access domain-specific data (Fig. 1, 4; col. 7, lines 22-31, 44-52; col. 8, lines 5-47; col. 13, lines 50-67; col. 14, lines 1-22) that is used to determine the at least one semantic relationships between the information and the at least one category (Fig. 10; col. 13, lines 50-67; col. 14, lines 1-22), and the software user interface is configurable to accept a user query for the information (Fig. 1; col. 7, lines 32-40) based on the at least one semantic relationship between the information and the at least one category (Fig. 16; col. 16, lines 54-62; col. 17, lines 15-43).

28. **Claim 33** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses the at least one information source includes at least one local file (Col. 13, lines 28-34)⁹.

⁶ The system displays the information according to the profiles and interests (customizable user preferences) of the user.

⁷ The information is delivered in the form of email. A user viewing the email on a personal computer (PC) will cache the information as it is being displayed to the user. The caching of information as it is being accessed is normal for a computer, especially if the email is being viewed through a web based client.

⁸ The concepts contain keywords that are provided by the user. The keyword concepts are used to create profiles and the profiles are used to refine the searched documents in order to determine relevant information.

⁹ Files in internet cache are local.

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29. **Claim 34** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses the at least one information source being anonymous (Col. 13, lines 10-17)¹⁰.

30. **Claim 35** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses wherein any of the at least one semantic relationship, the at least one category, the domain-specific data, and the information are manageable from a central location (Fig. 1)¹¹.

31. **Claim 36** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses the at least one server also performs the step of determining an age of the information and delivering the information based on the age and the at least one semantic relationship between the information and the at least one category (Fig. 16; col. 16, lines 54-62; col. 17, lines 15-43, 47-55)¹².

32. **Claim 37** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses delivering the information and trivia based on the at least one semantic relationship between the information and the at least one category (Col. 17, lines 4-14)¹³.

¹⁰ The internet pages are extracted from internet sites that are returned by the search. Since the sites were not particularly identified, they are anonymous.

¹¹ As shown in figure 1, the knowledge servers are connected to a LAN. A LAN is a local area, in other words, a central location. The knowledge servers store the information.

¹² The system checks the date the document was added to the knowledge base (age) to determine an expiration date. If the document is expired, it is removed. Removal of the document effects the results that are returned, therefore the information delivered is based on the age too.

¹³ The information is delivered in groups of relevant documents. The groupings are unnecessary and thus are considered trivia.

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33. **Claim 38** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses the at least one category being selectable by a query (Col. 8, lines 15-47)¹⁴.

34. **Claim 39** is substantially similar to claim 1 and is rejected for the same reasons.

Addressing the additional limitation, Presnell discloses presenting information on a user interface and to deliver the information to the user interface based on the at least one semantic relationship between the information and the at least one category (Figs. 1, 20; col. 7, lines 32-40; col. 18, lines 4-16).

Claim Rejections - 35 USC § 103

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

36. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Presnell et al. (US Patent 6,182,067) of record, hereinafter “Presnell”, in view of Chu (US Patent Pub 2003/0065663).**

37. Presnell discloses the system of claim 5 as addressed above.

¹⁴ The knowledge concept (the at least one category) is interpreted to be selectable by a query because the user provides a definition for the concept (category). The definition is then used to associate documents through a query of the documents. The concept is then associated (selected) with the document. Thus, the concept (category) is associated (selectable) by a query.

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38. Presnell does not expressly disclose wherein the delivered information that is redundant is manageable.

39. Chu discloses analyzing the query results from the knowledge systems in order to best package the results, the process may including eliminating redundant query results (Chu: para. 0025).

40. Presnell and Chu are analogous art because they are both directed towards the same field of endeavor of knowledge systems.

41. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Presnell by adding the feature of managing the redundant information that is delivered, as taught by Chu.

42. The motivation for doing so would have been because Chu teaches that removing redundant query results would result in better packaged results for the user (Chu: para. 0025).

Double Patenting

43. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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44. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

45. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

46. **Claims 1, 2, 5 and 33-38** of Application No. 10/781,053 hereinafter “AN-053”, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 172, 173, 175 and 176 of copending Application No. 10/179,561 hereinafter “AN-561”. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

47. **Claim 1** of AN-053 is essentially claims 1, 172 and 173 of AN-561, respectively in combination of claim 175 of AN-561 with the differences of claims 1, 172 and 173 of AN-561 recite --computer-- (Claims 1, 172, 173, line 1 respectively) instead of “server” (Claim 1, line 1). Also, claim 1 of AN-053 does not claim the further limitations of the storing step as recited in claim 175 of AN-561, lines 4-9. It is obvious to eliminate an element. In *Re Karlson*, 136 USPQ 184, 186; 311 F.2d 581 (CCPA 1963).

48. **Claim 5** of AN-053 is essentially claims 1, 172 and 173 of AN-561, respectively in combination of claim 175 of AN-561 with the differences of claims 1, 172 and 173 of AN-561 recite --computer-- (Claims 1, 172, 173, line 1 respectively) instead of “server” (Claim 5, line 1) and additionally claiming the “user interface” in line 6. Also, claim 5 of AN-053 does not claim

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the further limitations of the storing step as recited in claim 175 of AN-561, lines 4-9. It is obvious to eliminate an element. In *Re Karlson*, 136 USPQ 184, 186; 311 F2d 581 (CCPA 1963).

49. **Claims 33-38** are essentially claims 1, 172 and 173 of AN-561, respectively in combination of claim 175 of AN-561 with the differences of claims 1, 172 and 173 of AN-561 recite --computer-- (Claims 1, 172, 173, line 1 respectively) instead of “server” (Claims 33-38, line 1 respectively) and not claiming the information source “including at least one local file” of claim 33, line 8; the information source “being anonymous” of claim 34, line 8; the limitation of “wherein any of the at least one semantic relationships, the at least one category, the domain specific data, and the information are manageable from a central location” of claim 35, lines 6-7; the limitation of “determining an age of the information” of claim 36, line 8; delivering the “trivia” of claim 37, line 12; and the limitation of “the at least one category being selectable by a query” of claim 38, lines 13-14.

50. It would have been obvious to one of ordinary skill in the art to make the information source include at least one local file (claim 33) because local information is easily and quickly accessed and advantageous to the user to know if there is useful information residing on their local client.

51. It would have been obvious to one of ordinary skill in the art to make the information source anonymous (claim 34) because there are many sources (companies and people) who are willing to provide information but do not want to be contacted for questions regarding said information.

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52. It would have been obvious to one of ordinary skill in the art to make any of the at least one semantic relationships, the at least one category, the domain-specific data and the information manageable from a central location because it saves time to manage tasks and information from one location, rather than having to move to a different location to handle each task or information.

53. It would have been obvious to one of ordinary skill in the art to determine the age of the information because information may become obsolete after a certain time period. In such a case, expired documents need to be removed (Presnell: Fig. 16; col. 16, lines 54-62; col. 17, lines 15-43, 47-55).

54. It would have been obvious to one of ordinary skill in the art to deliver trivia with the information because although it is not required, it may be useful to the user.

55. It would have been obvious to one of ordinary skill in the art to make the at least one category be selectable by a query because maintains consistency over arbitrarily creating categories and saves time over selecting a category from a potentially large list.

56. Also, claims 33-38 of AN-053 do not claim the further limitations of the storing step as recited in claim 175 of AN-561, lines 4-9. It is obvious to eliminate an element. In *Re Karlson*, 136 USPQ 184, 186; 311 F2d 581 (CCPA 1963).

57. **Claim 2** of AN-053 is the essentially the same as claim 176 of AN-561 except for replacing “computer” with --server-- and “comprises structure or methodology directed to” (Claim 176, lines 1-2) with -- programmable to -- (Claim 2, line 2).

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58. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

59. A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

60. **Claim 4** is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 4 of copending Application No. 11/127,021. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Response to Amendment

Drawings

61. Applicant failed to address the objection to the drawings because Applicant did not understand the Examiner's objection. Further clarification of the objection is made in the above Office Action. Consequently, objection to the drawings is maintained.

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Specification

62. Applicant's amendment to address active hyperlinks and trademarks is acknowledged.

Consequently, objection to the specification is withdrawn.

Objection to claim 1 for Minor Informalities

63. Applicant's amendment to claim 1 renders the objection moot. Consequently, the objection to claim 1 is withdrawn.

Rejection of Claims 1-4 under 35 U.S.C 112, Second Paragraph

64. Applicant's amendment to claims 1-4 is acknowledged. The amendment to claims 1 and 2 and cancellation of claim 3 renders the rejection to them moot. In regards to claim 4, the word "semantically" was rejected for being a relative term. Upon further consideration, the Examiner interprets the term broadly for the prior art rejections. Consequently, the rejection to claims 1-4 under 35 U.S.C. 112, second paragraph is withdrawn.

Rejection of Claim 4 under 35 U.S.C 101

65. Upon further consideration, the rejection to claim 4 under 35 U.S.C. 101 is withdrawn.

Provisional Double Patenting Rejection of claims 1-4

66. Applicant's cancellation of claim 3 renders the rejection to it moot.

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67. Applicant's amendment to claim 1 fails to overcome the double patenting rejection due to amendments in the co-pending application as set forth in the rejection above.

68. The provisional double patenting rejection to claims 1, 2 and 4 is maintained.

Response to Arguments

Rejection of claims 1-4 under 35 U.S.C. 102(e)

69. Applicant's arguments in regards to the rejections to claims 1-4 under 35 U.S.C. 102(e), have been fully considered but they are not persuasive.

70. In regards to claims 1 and 2, Applicant seems to argue the claims as amended. Thus, new grounds of rejection have been set forth above.

71. The rejection to claim 3 is moot due to its cancellation.

72. In regards to claim 4, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

73. Consequently, the rejection to claims 1, 2 and 4 under 35 U.S.C. 102(e) is maintained.

Conclusion

74. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

75. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Le whose telephone number is 571-272-7970. The examiner can normally be reached on Mon-Thurs : 9:30am-6pm, Fri: 8am-4:30pm.

76. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

77. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Michael Le
Art Unit 2163
February 1, 2006



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PRIMARY EXAMINER